

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MARCIANO MENDEZ-MAYA,
Petitioner,

Case No. 3:12-cv-1595-TC

ORDER

v.

MARYANNE FEATHERS,
Defendants.

Aiken, Chief Judge:

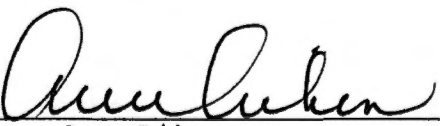
Petitioner, an inmate in the custody of the Federal Bureau of Prisons at FCI Sheridan, filed a petition under 28 U.S.C. § 2241 challenging his 2008 conviction of possession of heroin with intent to distribute. Magistrate Judge Coffin issued his Findings and Recommendation in the above-captioned case on January 28, 2013. Magistrate Judge Coffin recommends that the petition be denied and the case dismissed, finding that petitioner failed to satisfy requirements of § 2241 "escape hatch" jurisdiction to challenge his conviction or sentence.

The matter is now before me. See 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Petitioner timely filed objections to the Findings and Recommendation. Upon de novo review, I find no error in Magistrate Judge Coffin's analysis. Further, the issue of equitable tolling, raised by petitioner in his objection, does not affect the determination of whether the "escape hatch" applies under § 2241.

THEREFORE, IT IS HEREBY ORDERED that Magistrate Judge Coffin's Findings and Recommendation (doc. 11) filed January 28, 2013 is ADOPTED, petitioner's petition (doc. 1) is DENIED, and this case is DISMISSED. The Clerk is directed to enter judgment accordingly. Should petitioner appeal, a certificate of appealability is DENIED as petitioner has not made a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

Dated this 22nd day of February 2013.


 Ann Aiken
 United States District Judge